IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. App. No. 716 of 2006

1. Surendra Chanchal
   S/o Late Guru Sharan Das
2. Shakuntala Devi
   W/o Sri Surendra Chanchal
   Both R/o Balmiki Basti, P.S. Kankhal
   District Haridwar.
3. Prem Chand Saini
   S/o Jyoti Prasad Saini
   R/o F-117 Industrial Area Bahadrabad
   P.S. Ranipur, District Haridwar …….applicants

Versus

1. State of Uttaranchal through
   Senior Superintendent of Police
   Haridwar, District Haridwar
2. Nalin Gaur C/o Shri B.L. Gulati
   R/o Mohalla Chaklan, P.S. Jwalapur
   District Haridwar ……..Respondents.

Shri Vivek Shukla, learned counsel for the applicants.

Hon'ble Prafulla C. Pant, J.

Heard Shri Vivek Shukla, learned counsel for the applicants.

2. By means of this petition, moved under Section 482 of Code of Criminal Procedure, 1973 (for brevity herein after referred as Cr.P.C.), the petitioners have sought quashing of the charge sheet in criminal case No. 370 of 2005 State Vs. Surendra Chanchal, relating to offence punishable under Sections 457, 380, 504, 447 and 511 of Indian Penal Code, 1860 (for brevity herein after referred as I.P.C.), P.S. Ranipur, District Haridwar, pending before Chief Judicial Magistrate, Haridwar. The said case has arisen out of the crime No. 122 of 2005, after the investigation is completed.

3. The facts of the case are that the complainant purchased the premises of a factory for Rs. 2,90,000/- from U.P. Financial Corporation. The applicant and other accused persons is said to have entered in the premises and committed theft of the property purchased by the complainant. It is argued that the civil dispute in respect of the property in question is pending and the criminal trial is not maintainable in respect of the same. From the fact and circumstances of the case, it cannot be said that in the present case criminal offence is not made out against the applicants for their trial. This Court is not supposed to examine the innocence of the accused persons, as it is a matter for the Trial Judge to see the same. The scope of this Court under Section 482 Cr.P.C. is a limited one and it can quash the proceedings only if the ingredients of the offence are not made out from the allegations and evidence collected in investigation by the prosecution if taken true. As such, this Court is of the view that the impugned criminal proceedings cannot be quashed in exercise of powers under Section 482 Cr.P.C.

4. The petition is dismissed with the observation that all pleas raised before this Court by the petitioners as to their innocence can be raised before the Trial Judge. It is further observed that in case petitioners are arrested or surrender before the trial court, their bail application, if moved, shall be disposed of by the Court concerned without unreasonable delay. The petition stands disposed of. (All pending applications in this case, also stand disposed of).

Dt. 10.10.2006 **(Prafulla C. Pant, J.)**
S